THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 22628 OF 2005

DATED: 22-11-2005

Between

Musunuri Subba Rao.

..... PETITIONER

And

The Government of Andhra Pradesh,

Represented by its Secretary to Transport,

Roads and Buildings (Roads VI) Department,

Secretariat Buildings, Hyderabad.

..... RESPONDENT

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ORDER: (per Sri B. Sudershan Reddy, J)

The petitioner is a Corporator of Vijayawada Municipal Corporation. The present writ petition has been filed by him in purported public interest invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a writ of Mandamus declaring impugned G.O. Ms. No. 181, Transport, Roads and Buildings (Roads VI) Department, dated 27-08-2005 as illegal and unsustainable.

The disputes centers around a small piece of land admeasuring 25 cents situated in R.S.278, Gunadala Village, Vijayawada Urban Mandal, Krishna District. The exact location of the land has been noticed by this Court in the earlier round of litigation in W.P No. 24780 of 2001 and Batch. It is situated at the junction of Ramavarappadu Ring in K.M.No.7/10 on Old Madras – Calcutta Road (Eluru Road). There is no dispute whatsoever that the said piece of land which is a left over one admittedly belongs to the Roads and Buildings Department. That a decision was taken by the Collector of Krishna District to hand over the said piece of land to the Police

Department for the purpose of construction of a police station. This decision of the Collector taken in public interest had given rise to filing of spate of writ petitions and civil suits. One of the issues raised in the earlier round of litigation was that the Collector had no authority in law to handover the said piece of land, which belongs to the Roads and Buildings Department to the Police Department. It is unnecessary to notice the further details and the controversy about handing over this particular piece of land by the District Collector to the Police Department since all the necessary facts have been succinctly noticed by this Court in the said writ petitions referred to hereinabove which were disposed of by a Division Bench of this Court vide its Judgment dated 27-11-2003. Suffice it to notice that the said judgment rendered by the Division Bench of this Court attained its finality.

This Court having regard to the nature of the averments and the controversy came to the conclusion that there is *inter se* controversy among the Roads and Buildings Department, Police Department and the Revenue Department. Having taken the same into consideration, this Court disposed of the writ petitions in the following manner:

> *"This being inter se departmental dispute and benefit is being taken by individuals rather than ensuring public interest which would prevail, we find it appropriate to issue direction to the first respondent in Writ Petition No. 18461 of 2003, viz., Special Chief Secretary, Transport, Roads & Buildings Department, Government of Andhra Pradesh, Hyderabad, to convene a meeting under his chairmanship inviting therein representatives of National Highways Authority of India, Project Director, Project Implementation Unit, ADB-3 Project, National High Ways Authority of India, Plot No.22, Teachers Colony, Gurunananak Nagar Road, Vijayawada, Commissioner of Police, Vijayawada, Officials of the Roads and Buildings Department, District Collector, Krishna District and such other person or persons as he would like to invite and ensure that appropriate decision is taken in accordance with law as regards proper use of Ac.0.25 cents of land aforementioned in the larger public interest."*

Learned counsel for the petitioner made an attempt to contend that the land in question belongs to the Vijayawada Municipal Corporation since all roads in the

Corporation vest in the Municipal Corporation and therefore, the same could not have been alienated by the District Collector, Krishna in favour of the Police Department. Learned counsel also contended that the impugned governmental decision is vitiated by non-application of mind since it had failed to take into consideration the earlier view of the Chief Engineer, Roads and Buildings Department. These are the only two contentions raised by the learned counsel for the petitioner.

Per contra, learned Government Pleader for Transport contends that the land in question belongs to Roads and Buildings Department which is left over after completing the widening of the road into four lanes as a part of extension of the National High Way and it was never with the Vijayawada Municipal Corporation. Learned Government Pleader further contends and rightly so, in our considered opinion, that the only question that is required to be considered in this writ petition is whether the respondents have complied with the directions issued by this Court while disposing of the writ petitions vide its judgment dated 27-11-2003. The sum and substance of the submission of the learned Government Pleader is that this Court at this stage cannot go beyond what has been already stated and decided by this Court while disposing of the writ petitions referred to hereinabove.

We have elaborately heard the learned counsel for the petitioner as well as the learned Government Pleader for Transport. In order to satisfy ourselves as to whether the Government has complied with the directions issued by this Court while disposing of W.P No. 24780 of 2001 and Batch, we have critically examined the complete records relating to the case, which have been made available for our perusal by the learned Government Pleader. We are in complete agreement with the submission made by the learned Government Pleader that the only question that falls for consideration in this writ petition is whether any proper meeting as such has been convened by the Chief Secretary to the Roads and Buildings Department in terms of the directions issued by this Court in W.P No. 24780 of 2001 and Batch and whether all the departments were represented for the purpose of taking an appropriate decision as to for what public purpose the piece of land should be utilized by the State Government?

The records reveal that a meeting of all the departments in terms of the directions of this Court has been convened and held under the chairmanship of the Special Chief Secretary, Transport, Roads and Buildings Department, Government of Andhra Pradesh. The views of all the concerned departments in terms of the directions of this Court have been ascertained. The Committee consisting of representatives of various departments having expressed their views came to the conclusion that it would be appropriate to ratify the action of the District Collector in handing over the advance physical possession of the piece of land to the Police Department for the purpose of construction of police station. The decision making process, in our considered opinion, is not vitiated for any reason, much less for the reason of non-application of mind. Every conceivable aspect of the matter has been taken into consideration by the Committee and an appropriate decision has been arrived at. It is too well settled and needs no restatement at our hands that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India does not exercise any appellate jurisdiction. It is neither permissible nor possible to re-appreciate the evidence and the material available on record and substitute our own opinion for that of the authority, which is required to decide the matter. We cannot express any opinion as to whether it would be appropriate to utilize the said piece of land for the purpose of construction of a police station or a junction for the free and smooth flow of traffic. At any rate, this aspect of the matter has been taken into consideration and there is nothing on record suggesting that the construction of the police station in the said piece of land adversely affects the free and smooth flow of traffic.

We find no merit in the contention of the learned counsel for the petitioner that the piece of land in question belongs to the Vijayawada Municipal Corporation and the same could not have been transferred by the District Collector to the Police Department. This issue cannot be permitted to be raised by the petitioner for more than one reason, viz., that the said issue had attained finality in the earlier round of litigation and that too in a public interest litigation. Secondly, the petitioner himself made an attempt to rely upon the earlier report submitted Chief Engineer to the Government requesting the Government to utilize the said piece of land for a traffic junction which itself would show that the land belongs to Roads and Buildings

Department and not to the Vijayawada Municipal Corporation. The decision is taken under the chairmanship of the Special Secretary to Roads and Buildings Department where all the officers of the Departments were represented and the governmental order itself has been issued in the name of Transport and Roads and Buildings Department as is evident from the impugned G.O. The G.O very carefully articulates that it had approved the decision of the District Collector in handing over the vacant possession of the said piece of land to the Police Department. It is needless to state that the Government which is an integral one functions through various departments. As at present, the decision has been taken by the Government and that too through the appropriate department and under the directions of this Court, which in our considered opinion, is not vitiated for any reason whatsoever.

The petitioner having brought the issue to the notice of this Court cannot be permitted to raise the dispute, which could have been raised only by a person claiming any ownership in the land. Admittedly, the land in question is a government land and all the departments that are required to be involved were involved under the directions of this Court in the decision making process.

For all the aforesaid reasons, we find no merit in the writ petition and the same shall accordingly stand dismissed without any order as to costs.

(B. Sudershan Reddy, J)

22..11..2005

(S. Ananda Reddy, J)

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